

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**LARRY E. EALY,**

**Plaintiff,**

**vs.**

**Case No.: 2:19-cv-826  
JUDGE GEORGE C. SMITH  
Magistrate Judge Jolson**

**JUDGE THOMAS MARCELAIN, et al.,**

**Defendants.**

**ORDER**

On April 19, 2019, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's Motion for Leave to Proceed with Lawsuit be denied and the case be dismissed. (*See Report and Recommendation*, Doc. 2).

The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff's Objections to the *Report and Recommendation* and Plaintiff's Motion for Extension of Time to Complete Waiver of Service (*see* Docs. 3 and 4). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

As his objection, Plaintiff requests an extension to complete the waiver of service and submits an affidavit for disqualification of the judges assigned to this case, including the undersigned and Magistrate Judge Jolson. Plaintiff, however, has not provided any new arguments suggesting that the Magistrate Judge's findings are incorrect.

The Magistrate Judge found that Plaintiff's alleged violations accrued prior to his release from prison on March 7, 2017, and are therefore barred by the two year statute of limitations. The Court agrees. There is nothing in Plaintiff's affidavit or motion that suggests that this conclusion is somehow incorrect or contrary to law. Therefore, the Court agrees with the

Magistrate Judge's findings that Plaintiff's Motion to proceed with this lawsuit be denied and his Complaint be dismissed.

For the reasons stated above and as set forth in detail in the *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**. The *Report and Recommendation*, Document 2, is **ADOPTED** and **AFFIRMED**. Plaintiff's Complaint is hereby **DISMISSED**.

The Clerk shall remove Documents 1, 2, 3, and 4 from the Court's pending motions list.  
The Clerk shall terminate this case.

**IT IS SO ORDERED.**

/s/ George C. Smith  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**